

Texas Environmental Flows Science Advisory Committee

Wednesday, July 15, 2009

9:00 a.m. – 3:00 p.m.

Texas Parks and Wildlife Department

Airport Commerce Building

Austin, Texas

MINUTES

Approval of meeting minutes from June 5, 2009

The SAC members approved the minutes, with certain changes, unanimously.

Liaison reports on BBEST meetings

Jack Tatum, Chair of the Sabine/Neches BBEST, indicated that the group was moving forward and had selected a subcontractor to perform the biological “drill down” tasks for the instream and bay and estuary portions of the basin. He also noted that their contractor for the hydrology component was making good progress and that a subcommittee had been established to address the water quality component.

Bob Brandes, liaison to the Trinity/San Jacinto BBEST, noted that the T/SJ BBEST was moving forward on the same fronts, that scopes of work for contractor support were with the TWDB for posting and a contractor should be selected soon. Bill Espey, Chair of the T/SJ BBEST, mentioned that the BBEST would soon begin to discuss how their deliverable, recommendations for an environmental flow regime, would look, or what form it might take.

Budget Update and Contractor funding

Solis, Manhart and Jensen

Ruben Solis, TWDB, went over the remaining SAC budget, noting that funds remained outside of the special projects category. He reiterated that “drill down” contracts for the T/SJ basin were in process, as noted by Bob Brandes, and the literature review work for the next two basin groups was under way as well. Chairman Huston mentioned that the “drill down” work being performed for the T/SJ basin was a SAC funded effort, and the hope is that this work will provide the T/SJ BBEST with a useful product that may be applied to future SB3 basins.

Chairman Huston asked the SAC members to submit invoices for expenses as soon as possible in preparation for the end of the fiscal year.

Chairman Huston then began a discussion of potential contracting activities to look at historical perspectives on nutrient and sediment loading to bays and estuaries, work spearheaded by SAC member Paul Jensen. A SAC workgroup met separately to begin to define a scope of work and decided on a two step approach: 1) confirm what data is readily available to then 2) utilize some WAM runs, to capture the naturalized “pre-development” and also runs to capture current conditions. Due to time constraints, this work will not immediately begin. Chairman Huston suggested that the members discuss the potential for additional data gathering activities to be done by the SAC water quality sub-group, and the potential for the water quality overlay document to host this information. It is likely that much of this work may need to occur under the next biennium. Paul Jensen suggested that this would be the best approach.

FY 2010-11 Budget Subcommittee report

Chairman Huston gave an overview of a budget draft for the FY 2010-2011 biennium, speaking to each line item proposed by the budget subcommittee. The budget draft included monthly meetings of the SAC and liaison participation with the BBESTs. He suggested that, during the period after the BBESTs have presented their recommendations to their respective BBASCs there should be collaboration and discussion between the two groups, and that the SAC liaisons could facilitate that collaboration. This established the number of BBEST/BBASC meetings (90 potential meetings which liaisons would need to attend) and associated costs on which is the proposed budget is based. The budget also included the assumption of need for allocations for subcommittee meetings and teleconferences, deliverable preparation, as well as work which may be performed by subcontractors. These estimates are very similar to what the initial dollar amount from the current budget proposal.

Todd Chenoweth, TCEQ, noted that the E-Flows Advisory Group had set a July 31 deadline for nominations to the second tier SB3 basin and bay systems, the Colorado and Lavaca Rivers and Matagorda and Lavaca BBASC and the Guadalupe, San Antonio, Mission and Aransas Rivers and Mission, Copano, Aransas, and San Antonio Bays BBASC. The EFAG had not set a date for selection of BBASC members. Chairman Huston proposed that the committee move forward with the draft budget and work with TWDB to refine and revise as necessary.

Discuss draft report – Biological Overlay Workgroup

Jim Wiersema began the discussion of the Instream biological overlay workgroup, giving an overview of the group's progress to date. He also explained that no conclusion chapter had been drafted to date, that the workgroup would like to receive comments from SAC members before beginning work on a conclusion. Next, Kathy Alexander, TCEQ, and Kevin Mayes, TPWD, contributors to the document, discussed the development and substance of each chapter in the draft guidance document. In general, the document hasn't deviated from the original outline. They requested comments and input from the SAC, as well as the biology workgroup.

Members discussed initial thoughts on the document and Jim Wiersema and agency staff explained the intent of each chapter, addressing the concerns brought up by the members. Chairman Huston concluded the discussion and the consensus among members was that the draft was a sufficient building block, addressing some of the comments and concerns brought up by the members, on which the workgroup could base a working draft of the guidance document. The workgroup requested comments from SAC members and BBESTS by July 22nd, to be sent to Mr. Wiersema. The instream biological workgroup could also review and provide comments by July 25th, to allow for SAC and BBEST comments to be considered, with the goal of distributing the revised document to the SAC by 7/31/09.

Take action on Water Quality overlay deliverable

Paul Jensen opened this discussion by noting fundamental questions that need to be addressed on the water quality overlay deliverable. The major question raised is what specific actions ~~should the BBESTs~~the BBESTs should take in response to the water quality/nutrient evaluation. Jensen then outlined the basic points of the document. The ensuing discussion included what flow components should be focused on, the timing of water quality evaluations of the flow recommendations, and if the water quality component should be applied in the same manner as the other disciplines. Members discussed these topics, noting comments and concerns. Chairman Huston noted that the biological overlay document addresses water quality as it is integral to the biology. Members continued to

discuss components of the document for a brief period, but the group agreed to move forward with the agenda and revisit this topic in afternoon discussions.

Comments on SAC B&E deliverable/Trinity-San Jac BBEST approach

Bob McFarlane, member of the T/SJ BBEST, gave a presentation critiquing the SAC approach to the methodologies for establishing a freshwater inflow regime as outlined in the B&E guidance document. Mr. McFarlane noted his concerns related to the methodology and provided an alternative conceptual model and the justification and rationale behind his approach. His essential argument is it's not the water or the flow regime, but what's in the water, i.e. the biota, and the associated data should determine needs for freshwater inflows. He then presented his proposal submitted to the T/SJ BBEST and outlined the steps in his proposal as an alternate approach to developing environmental flow recommendations for the freshwater inflow component.

Jim Lester, vice-chair of the T/SJ BBEST, gave a presentation on his concerns regarding the SAC B&E methodology as outlined in the guidance document, differentiating his concerns with those of Mr. McFarlane. His main concern is an objection to the ecosystem approach, in that mobile organisms move in and out regardless of the salinity. But what can be used are select species (common stenohaline species) for which relative abundance can be compared to salinity signals. Dr. Lester answered questions from both the audience and SAC members.

SB3 Provisions regarding implementation/adaptive management, and current Water Rights provisions

Lyn Clancy, LCRA, gave a presentation on the concept and overall intent of Article 1, SB3. She noted that the intent was to create more certainty in the water rights permitting process by setting environmental flow standards in advance, giving the example of a "look-up" table. She went over the legislative actions leading up to the passage of SB3, including SB1 and the Texas Instream Flow program. Then she began to explain the SB3 approach: the SAC instructs and provides guidance to the BBESTs and Advisory Group, the BBESTs must make their recommendations based on the best available science, and the BBASCs make their recommendations based on the scientific environmental flow recommendations, but also take into account other factors including human needs, economics, recreation, etc. Ultimately, she explained, these recommendations would be passed on to the TCEQ for adoption by rule. Todd Chenoweth, TCEQ, further explained that the standards could come in a similar form to the water quality standards, both numerical and narrative standards.

Ms. Clancy went on to explain the adaptive management component in SB3, stating that this is a formal process for accepting new science, which has the potential to open up water right permits for revision in the future. The statute states that the environmental flow recommendations must be revisited at least once every ten years. She also explained SB3's re-opener clause and the work plan the BBASCs are to develop, with BBEST assistance, and provide to the Advisory Group. These plans would establish studies and schedules to review and refine the flow analyses, environmental flow recommendations, standards and strategies developed by the BBEST and BBASC.

Throughout her time she responded to questions from the SAC and audience members.

Water Quality

Summarizing the morning discussion, Chairman Huston suggested a subcommittee to reformat the water quality component as it applies to the HEFR model and the need for a water quality overlay. Those members include: Paul Montagna, George Ward, Bob Huston, Kathy Alexander (or Todd Chenoweth) and David Bradsby.

Progress Report from the Hydrology Workgroup

Bob Brandes led this discussion, passing out a handout which framed the issue as well as how their proposals might work with the HEFR module. The main issues of concern are 1) Is there a distinction between a flow regime restriction and a flow regime, and 2) should a realistic level of infrastructure be incorporated into the flow regime recommendations, which yield a sound ecological environment. The overarching question which remains is: “What will these environmental flow recommendations look like?” Members and agency staff discussed concerns and potential options on how to move forward.

Chairman Huston noted that these efforts would greatly support the BBASCs and suggested that the workgroup revisit the document and try and address some of the issues.

Initial discussion of Implementation Methodologies/SAC role

Chairman Huston stated that much of the implementation agenda item had come up in other discussions throughout the day and that the group would need to start thinking and be prepared to address this issue in future meetings.

Public comments

Glenda Callaway, T/SJ BBASC member, noted that their group would like ideas and recommendations on monitoring strategies to be incorporated into the workplan they are to develop under adaptive management. Chairman Huston responded that the SAC would address this topic and provide any guidance to the BBESTs and BBASCs through their respective liaisons.

Next Meeting (August 5, 2009) Agenda

Agenda items suggested for the next meeting are:

- David Maidment, UT – Digital Library
- Nueces Estuary SB3 group update
- Finalize Biological overlay review and approval
- Finalize Water Quality overlay review and approval
- “Drill down” activities update
- Hydrology Workgroup discussion

The September meeting was scheduled for September 9, 2009.

Adjourn